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Ongoing priorities and themes

Information received from the United Nations system

Note by the Secretariat

In its report on its third session, held in May 2004, the Permanent Forum on Indigenous Issues identified proposals, objectives, recommendations and areas of possible future action and, through the Economic and Social Council, recommended that States, United Nations system and intergovernmental organizations, indigenous peoples and non-governmental organizations assist in their realization. Information received in this regard from the United Nations system is contained in the present document and its addenda.

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United Nations Human Settlements Programme

Summary

The United Nations Human Settlements Programme (UN-Habitat) works towards improving living conditions, development of adequate shelter for all and sustainable human settlements development, while focusing on the needs of the poor and other vulnerable and disadvantaged groups, including indigenous peoples. The Habitat Agenda and other relevant international instruments and frameworks related to economic and social development and human rights provide guidance to UN-Habitat in its work in the human settlements development field. The main ongoing activities of UN-Habitat relevant to the needs of indigenous peoples are related to efforts to promote inclusiveness, social integration and the realization of housing rights in human settlements, for example, activities related to the implementation of Goal 7, target 11, of the Millennium Development Goals, the Global Campaign on Urban Governance, the Global Campaign for Secure Tenure and the United Nations Housing Rights Programme.

In response to the outcome and requests from the first, second and third sessions of the Permanent Forum on Indigenous Issues, particularly paragraph 68 of the recommendations of the third session, UN-Habitat has strengthened its focus on indigenous issues and the needs of indigenous peoples. Jointly with the Office of the United Nations High Commissioner for Human Rights and as part of the implementation of the United Nations Housing Rights Programme, a research project on the theme "Indigenous peoples' right to adequate housing: a global overview" has been undertaken. The report on this research indicates that, despite some focused policies and practices in a number of countries, indigenous peoples suffer from worse living and housing conditions than the population at large. The conclusions of the report are grouped according to general issues, housing and living conditions, and laws and policies relevant to housing and housing programmes.

The recommendations are grouped as general issues including identity and self-determination, participation in decision-making processes, discrimination and inequality, connecting land and housing; housing and living conditions including poverty, housing policy and programmes, housing adequacy, violence against women and children and forced evictions; and of legislation and institutional framework. The report, including case studies from Australia, Canada, Ecuador, Finland, Kenya, Mexico, Norway, Sweden, the Philippines and the Russian Federation, is available at http://www.unhabitat.org.

The highlights of the research findings, including the conclusions and recommendations, are summarized in section I of the present report.

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I. Response to recommendations addressed exclusively to UN-Habitat

1. The present report is prepared in response to the recommendation of the Permanent Forum on Indigenous Issues at its third session[1] addressed exclusively to UN-Habitat as related and relevant to the mandate and activities of the organization. The research project on the theme "Indigenous peoples' right to adequate housing: a global overview", undertaken within the framework of the United Nations Housing Rights Programme, a joint initiative programme of UN-Habitat and the Office of the United Nations High Commissioner for Human Rights (OHCHR), has been implemented in response, inter alia, to the above-mentioned recommendation and is the most specific activity of UN-Habitat related to indigenous peoples and issues.[2] The conclusions and recommendations of this research initiative are presented below.

A. Conclusions of the UN-Habitat/Office of the United Nations High Commissioner for Human Rights research project on "Indigenous peoples' right to adequate housing: a global overview"

General

2. While indigenous peoples and communities across the world are culturally quite distinct, their housing conditions and experiences are very similar.

3. As illustrated in the case studies, indigenous peoples living within the borders of one country are not always homogenous. Each ethnic group and community has specific characteristics and has a particular relationship with the Government and the mainstream population. Moreover, each indigenous community has distinct cultural expressions and approaches to its natural environment.

4. All the indigenous peoples covered in the present report continue to struggle with the effects of colonialism, nationalism and/or privatization. In each instance, the dominant culture used force to conquer indigenous peoples, and then proceeded to homogenize them and/or compel them to assimilate into the dominant culture. Thus, the lives of indigenous peoples were fundamentally altered and their very existence and identity threatened, owing, in particular, to lack of self-determination and the exclusion of indigenous people from decision-making structures and processes. With respect to housing, this has meant that indigenous people have not been able to access and control the resources they need to develop and manage their own housing. At the same time, indigenous peoples and their communities have not participated in a meaningful way in the development and implementation of housing policies and programmes.

5. Indigenous peoples are subject to discrimination and inequality in almost all aspects of housing, including laws and policies that have discriminatory effects; discriminatory allocation of resources for housing, including credit and loans; and discriminatory practices of private landlords in the rental market, which often prevent indigenous peoples from renting even the worst accommodation.

6. Policies and programmes related to housing generally discriminate against indigenous peoples directly or have discriminatory effects. These inadequate and discriminatory conditions prevail even in countries where international human rights

treaties have been ratified and where there are domestic laws and mechanisms aimed at promoting equality and protection against discrimination in housing and/or legislation recognizing land title rights for indigenous peoples. Simply put, indigenous peoples' human rights often seem to fall by the wayside in the face of economic development interests. Indigenous women experience gender-based discrimination with respect to a number of human rights, directly or indirectly affecting their ability to enjoy the right to adequate housing.

Current housing and living conditions

7. Indigenous communities in general have a far inferior standard of living compared to the rest of the population. Poverty is one of the factors that most defines the lives of indigenous peoples in almost every region of the world. The higher incidence of inadequate housing and homelessness among indigenous peoples is a clear manifestation of their relative poverty.

8. A number of the case studies reveal that indigenous poverty and disadvantage and discrimination with respect to the right to adequate housing are closely linked to the dispossession of indigenous peoples from their lands. In many instances, land dispossession[3] forces indigenous peoples to leave their lands. This affects indigenous peoples in several ways. It leaves them with no means to sustain themselves and gain a livelihood and, as a result, they often cannot build or create housing for themselves. As a result of both loss of livelihood and absence of adequate housing, indigenous women and men are compelled to migrate, often to cities and towns, in search of both.

9. The case studies show that indigenous peoples generally do not enjoy adequate housing in the following areas as defined by general comment No. 4 of the Committee on Economic, Social and Cultural Rights:

(a) **Security of tenure**: indigenous families and communities in different regions of the world lack security of tenure for a number of reasons, including the fact that their land can be expropriated by the State for the exploitation of resources; they can be forcibly displaced by the State to make way for development projects; custom and tradition can be used by private individuals to dispossess a widow or divorced woman of her home and lands; and sufficient measures are rarely taken against racist practices by landlords and other actors;

(b) **Affordability**: housing in cities, where land is scarce, is becoming increasingly expensive, which makes owning or even renting prohibitive, especially for indigenous peoples who tend to be among the poorest in almost every society. Unless public housing is available, indigenous peoples have no choice but to either live in overpriced rental housing, from which they may be evicted for non-payment of rent, or to live in slums, informal settlements or on the streets;

(c) **Habitability**: many of the studies reveal that indigenous peoples often live in overcrowded conditions. Overcrowded housing tends to accelerate the deterioration of dwellings and increases the risk of the transmission of diseases and the promulgation of domestic violence and other abuses and violations. Indigenous peoples often live in dwellings that do not protect them from the natural elements. Furthermore, there appears to be a close link between poor housing conditions and ill health;

(d) **Availability of services**: many indigenous households lack basic services such as drinking water and electricity. This seems to be true regardless of the level of development of the country;

(e) **Accessibility**: adequate housing is not always accessible to indigenous peoples, especially in urban areas, as a result of the discriminatory attitudes of housing providers, which create barriers in the rental housing market. Indigenous women encounter further barriers in terms of housing access, as a result of gender-based discrimination in laws, customs and traditions, which prevent indigenous women from owning, renting and/or inheriting land, property and housing, in particular upon the dissolution of a marriage or upon the death of a woman's spouse;

(f) **Location**: many indigenous peoples live in remote locations where essential services such as health clinics/hospitals and schools are not available;

(g) **Cultural adequacy**: many indigenous peoples are currently living in housing that does not meet their cultural needs. In situations where indigenous people live in public housing, these units often cannot accommodate their kinship ties, and most indigenous people have to give up traditional and culturally specific housing when they migrate to cities.

10. In addition to the above, indigenous women, whether in urban or rural areas, are faced with a number of gender-specific obstacles to the full enjoyment of their right to adequate housing. Violence, particularly domestic violence, can be identified as one of the most serious and pressing obstacles. Poor and inadequate housing conditions, characterized by overcrowding and lack of privacy, sanitation and basic services exacerbate women's vulnerability to domestic violence. Another phenomenon is the fact that indigenous women are unable to acquire housing independently from men. In some circumstances, society alienates women who live alone, whether they are divorcees, widows, single women or married women separated from their husband. Additionally, often due to customary law, traditions and culture, women do not have the opportunity or possibility to own, acquire or inherit property.

11. The case studies reveal that extreme poverty, the deterioration and dispossession of lands, forced evictions, employment prospects and the centralization of services in cities, combined with the general lure of city life, results in the migration of many indigenous people to cities and towns. In the cities, indigenous people experience extreme poverty, rampant discrimination and the loss of spiritual, community and family ties, as well as loss of indigenous culture and values. With home-ownership being prohibitively expensive, their housing conditions are often very poor. Many, therefore, live in informal settlements and slums, while some are left homeless.

12. Forced eviction is one of the most common violations of the right to adequate housing facing indigenous peoples across the world, in both rural and urban settings. In most instances, forced evictions are the result of development projects such as hydroelectric dams and mining and logging operations. Indigenous lands are targeted for a number of reasons: these lands are often resource-rich, located in marginal or remote areas and are often perceived as not being legally owned by indigenous peoples.

13. The short and long-term effects of forced evictions on indigenous families and communities, regardless of where they occur, are severe. In addition, indigenous

peoples suffer both spiritually and physically as a result of dislocation from their homelands, a process that destroys their ability to be economically self-sufficient, lowers their living standards, causes social and health problems and erodes their tradition and culture.

14. Forced evictions and the dispossession of land have a particularly severe impact on indigenous women, often leading to an increased workload since they must walk long distances to find alternate sources of water and fuelwood. Women can also lose their integral role in agricultural production, being driven from income-earning productive activities, into economic dependence on men.

Laws and policies relevant to housing

15. A solid, progressive legal foundation for the rights of indigenous peoples has been adopted or is in the process of being adopted in several countries reviewed in this research initiative. Some legislation recognizes the land rights of indigenous peoples and protects them against forced relocation. In many instances, however, the laws are not being implemented properly.

International law

16. All 10 States examined in detail in this research initiative have ratified or have acceded to key international human rights instruments of general application, such as the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the International Covenant on Civil and Political Rights. Three of those States have also ratified International Labour Organization Convention No. 169.

17. Given the prevailing inadequate housing conditions of indigenous peoples, it is clear that, in and of itself, the ratification of international human rights instruments of general application does not necessarily translate into the exercise and enjoyment of the right to adequate housing and other rights by indigenous people. That being said, the concluding observations and general comments of the treaty-monitoring bodies have provided indigenous peoples with increased legal leverage for their human rights claims.

18. The ratification of ILO Convention No. 169 has also been important for indigenous peoples. First, indigenous peoples view ratification of the Convention as an important practical, symbolic and good-faith step by their Governments. Secondly, it has, in some instances, provided a legal framework for the drafting of domestic legislation. Thirdly, there may be a more perceptible commitment on the part of those States to engage indigenous peoples and their representative bodies in dialogue and to develop laws that better recognize indigenous rights.

National law

19. The research initiative revealed that indigenous peoples' rights are protected in national constitutions or in acts specific to indigenous peoples in many of the States reviewed. Some acts include provisions that could be applied to protect aspects of the right to adequate housing for indigenous peoples.

20. Several of the States reviewed have also enshrined the right to adequate housing in their constitutions. In other countries where there is no constitutional

recognition of this right, the State purports to implement the right to adequate housing through enabling housing legislation and housing policies and programmes.

21. In several States, indigenous peoples have used the courts to enforce their rights, although it appears, overall, that they are not doing so in large numbers. The results of litigation on issues related to indigenous land and housing rights have been mixed. For example, in Norway, the Supreme Court resolved two cases that resulted in the recognition of Saami land rights. In Canada, indigenous tenants challenged the discriminatory comments of a landlord and won. In Australia, on the other hand, indigenous tenants have challenged State-imposed evictions and discriminatory comments made by a private landlord and have lost. In Ecuador, indigenous peoples have launched numerous cases against companies wanting to exploit oil and have experienced both victories and losses.

Housing programmes

22. The case studies describe a range of housing programmes, some of which were designed specifically for indigenous peoples, while others were designed for the general population, although they can, ostensibly, be accessed by indigenous peoples.

23. The most successful programmes and projects are often those that have involved indigenous peoples in meaningful and diverse ways. In Canadian cities, social or public housing that is owned and operated by indigenous peoples and designed in a culturally sensitive manner has proved to be very popular with indigenous tenants. In Finland, the Government implemented a loan and grant scheme for the Saami that enables them to build their own houses on their own land, resulting in high rates of home ownership and lower rates of social housing tenancy in their community. In Kenya, Maasai women have been part of a project that enables them to use indigenous skills and materials to redesign existing housing to meet their needs.

B. Recommendations of the UN-Habitat/Office of the United Nations High Commissioner for Human Rights research project on "Indigenous peoples' right to adequate housing: a global overview"

24. The following recommendations are based on the findings and proposals of the researchers for this initiative. The recommendations, which are intended to address the most prominent housing issues confronting indigenous men and women, are largely aimed at Governments, though some are directed at other stakeholders such as financial institutions, indigenous communities and leaders and non-governmental organizations.

25. It would be very useful if all relevant United Nations and other intergovernmental organizations, including UN-Habitat, OHCHR and the Permanent Forum on Indigenous Issues, could strengthen their focus on the housing rights of indigenous peoples and elaborate appropriate new standards, programmes and policies, including resolutions of their policy bodies, so as to influence and direct all stakeholders, particularly Governments, to contribute more effectively to the full and progressive realization of the right of indigenous peoples to adequate housing.

General issues

Identity and self-determination

26. Indigenous peoples' right to self-determination is an important element in ensuring the preservation of their cultures and identities and is also an important element in the realization of the right to housing, which is not to say that these rights are either mutually exclusive or mutually dependent. However, enjoyment of the right to self-determination could assist in the realization of the right to adequate housing by indigenous peoples since it would allow for indigenous self-governance and the participation of indigenous peoples in decision-making processes and policy development that directly affect them.

27. Specific group rights for indigenous peoples, including self-governance rights, should not be used to exclude or discriminate against members of indigenous communities, such as women and youth. Indigenous communities that are currently self-governing should, therefore, also ensure the equal participation of indigenous women and youth in all aspects of self-governance, including in the design and implementation of laws, policies and programmes that affect their rights to land, property and housing.

Participation in decision-making processes

28. Indigenous women and men will continue to be marginalized if they are excluded from decision-making processes. Governments must ensure that indigenous peoples are included as equal partners in all decision-making processes, particularly regarding issues of interest and importance to indigenous communities. With respect to housing, indigenous men and women must participate freely and equally in the development of any legislation, policies or programmes that may have an impact on their housing conditions. Indigenous men and women must also participate equally in discussions, negotiations and decisions regarding development projects that are to take place on their lands. The principle of free, prior and informed consent should be applied at all stages of the project cycle, which means that their voices must be heard and their demands and grievances met when major decisions are taken regarding development priorities and the allocation of resources.

Discrimination and inequality

29. In accordance with international human rights law, States must urgently address the discrimination, inequality and historical injustices experienced by indigenous peoples. This requires that rights and laws be interpreted and policies and programmes be designed in ways that take the socially constructed disadvantage of indigenous men and women into account and that secure equality of access and outcome for indigenous women and men.

30. Indigenous communities must ensure that indigenous women are not subject to discrimination and inequality within their own communities, including through customary law and traditional practices. As indigenous peoples achieve greater levels of participation in decision-making processes, the principles of equality and non-discrimination must guide this process, in particular with regard to the perspectives of indigenous women.

Linking land and housing

31. The dispossession of indigenous peoples from their lands has far-reaching consequences, resulting in the violation of a number of other rights, such as the right to adequate housing. The linkage between land rights and economic, social and cultural rights deserves further attention at the international level. In particular, it would be useful to explore whether indigenous peoples' struggles for land rights could benefit from a housing rights perspective. To that end, UN-Habitat and OHCHR, through the United Nations Housing Rights Programme and jointly with the Permanent Forum on Indigenous Issues, could host a seminar on indigenous peoples and the right to adequate housing, which would bring together indigenous and non-indigenous experts, Governments and non-governmental organizations in order to share the conclusions of this report and elaborate recommendations on how to promote and protect indigenous peoples' rights to adequate housing more effectively, including land rights issues. Such initiatives could also elaborate new standards, policies and programmes that take into account and focus on the principle of the free, prior and informed consent of indigenous people.

Housing and living conditions

Addressing poverty

32. A key aspect of improving the housing conditions of indigenous peoples is to address their poverty. This is in keeping with the principle that the right to adequate housing is a constituent element of the right to an adequate standard of living, as articulated in the International Covenant on Economic, Social and Cultural Rights. Governments must create the circumstances for indigenous peoples to become economically self-reliant. This can be done through a number of effective measures, perhaps the most important of which is ensuring that indigenous peoples retain access to their lands and other productive resources such as credit and loans, education and training. Governments must also develop specific economic policies that stimulate employment opportunities in urban areas and development in rural areas, taking into account indigenous peoples' needs, rights and modes of production.

33. Other socio-economic disadvantages experienced by indigenous peoples, such as poor health and low levels of education, must also be addressed through the provision of adequate services, both in terms of culture and quality, by Governments to all indigenous communities.

Housing policy and programmes

34. Within the overall framework of enabling shelter policies and strategies, Governments and housing providers must take steps, within their maximum available resources, to achieve the full and progressive realization of the right to adequate housing. Creative housing programmes and projects that ensure the availability and accessibility of affordable housing for the poorest segments of society, including indigenous people, should be developed and implemented. For example, in the urban context, Governments could explore how rental accommodation might be further developed and/or improved to meet the needs of indigenous urban-dwellers. Similarly, Governments may be required to

formulate temporary special measures for indigenous peoples, and for indigenous women in particular, as a means of accelerating their equal enjoyment of housing rights with the non-indigenous population. Governments should also invest in the development of indigenous expertise in the full range of technical capabilities for effective housing programme design, delivery and management.

Ensuring housing adequacy

35. In order for indigenous peoples to enjoy the right to adequate housing, Governments could undertake actions in the following areas:

(a) Security of tenure: Governments should ensure legal security of tenure for indigenous peoples, including effective protection from forced evictions and, possibly, the legalization of informal settlements. This is commonly achieved through the enactment and enforcement of legislation. Legal recourse should also be available and accessible to those indigenous peoples whose security of tenure is threatened, taking into account customary law, where possible;

(b) Affordability and habitability:

(i) Governments must undertake measures to provide housing assistance targeted specifically at indigenous peoples who cannot afford market prices because of their continued disadvantaged position in society. This might be accomplished by ensuring an adequate supply of social or public housing designated specifically for indigenous peoples. It might also be accomplished if Governments supported and encouraged self-built housing for indigenous peoples;

(ii) Governments could also provide housing subsidies and shelter allowances to indigenous households living in poverty. These allowances would be allocated to the individual, rather than a specific housing unit, and could be used to pay for adequate units within the private rental market;

(iii) Governments could also offer incentives to private sector housing providers to build and provide affordable and culturally adequate housing units;

(iv) Alternative housing delivery and management arrangements, such as cooperatives, in particular those organized by indigenous peoples themselves, should also be supported by Governments;

(v) To improve habitability of existing units, indigenous peoples should have equal access to existing grants or loan schemes devised to assist in housing upgrade or renovation.

(c) Accessibility:

(i) Governments, local authorities and indigenous leaders should immediately address the discrimination and inequality experienced by indigenous peoples, including indigenous women, in the housing sector. This will require Governments, inter alia, to repeal laws and policies that

discriminate, on their face or in their effects, and to enact and enforce legislation that prohibits discrimination;

(ii) Governments could provide targeted assistance to indigenous dwellers while upgrading living conditions in informal settlements, as well as in other substandard urban housing;

(iii) Governments should also undertake initiatives to raise awareness about what constitutes discrimination against indigenous peoples, including, specifically, indigenous women, in the housing sector. These initiatives should be targeted at housing providers, as well as the general public. Governments, together with indigenous communities, should ensure that custom and tradition are interpreted and evolve in a manner that ensures indigenous women's equal rights to own, rent, lease and access land and housing regardless of marital and other status.

(d) Location: Governments must also ensure that health, educational and other services respect and promote indigenous languages and cultures and are located in close proximity to indigenous communities;

(e) Availability of services: one of the obstacles to adequate housing in rural areas is access to infrastructure and essential services such as water and electricity. Sustainable technologies and networks must be developed to ensure that all indigenous communities have sustained access to potable water and electricity;

(f) Cultural adequacy: to ensure that housing is culturally adequate for indigenous peoples, they must be included in the design, development and implementation of housing projects.

Violence against women and children

36. **Governments, non-governmental organizations and indigenous communities should specifically ensure the provision of shelters, services and alternative livelihoods for indigenous women having to leave situations of domestic violence. It is imperative that these services be culturally appropriate. This includes ensuring that staff are indigenous or are trained to work effectively with indigenous women. Similarly, sexual and other abuse of indigenous children who have been separated from their families should be redressed, taking into account their specific needs.**

Forced evictions

37. **Governments, the private sector and financial institutions should do everything possible to avoid the eviction of indigenous peoples from their homes and lands, including the following:**

(a) Governments, in conjunction with international financial institutions and other lending agents, should undertake human rights impact assessments with indigenous communities prior to initiating development projects in indigenous areas, ensuring the principle of free, prior and informed consent. If the assessment reveals that violations of the rights of indigenous peoples may result, such projects must be renegotiated;

(b) International, regional and national financial institutions and other organizations play a vital role in facilitating major development projects by providing various forms of financial and technical support. It is imperative that the internal policies regarding development projects and indigenous peoples of these institutions be revised and applied in a manner that ensures conformity with contemporary international human rights norms of general application such as those of the International Covenant on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination against Women and the International Convention on the Elimination of All Forms of Racial Discrimination, as well as international law particular to indigenous peoples such as ILO Convention No. 169, and any relevant national laws, treaties, agreements or pending agreements regarding the rights of indigenous peoples.

38. **When evictions and relocations are unavoidable, they must be undertaken in a manner that conforms with international human rights standards, as contained in general comment No. 7 of the Committee on Economic, Social and Cultural Rights and the United Nations comprehensive human rights guidelines on development-based displacement.**

Legislation and institutional framework

International level

39. **Member States are encouraged to ratify ILO Convention No. 169 and other relevant international human rights treaties, such as the International Covenant on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination against Women and the International Convention on the Elimination of All Forms of Racial Discrimination, as well as relevant regional instruments.**

40. **When reviewing the compliance of State parties with treaty obligations, all treaty-monitoring bodies should ensure that due attention is given to the situation of indigenous women and men. Treaty-monitoring bodies should encourage indigenous non-governmental organizations to attend these sessions and/or to provide information regarding the status of their human rights.**

41. **Indigenous issues, with a focus on indigenous women, should be mainstreamed in relevant intergovernmental processes throughout the United Nations system.**

42. **States should advance the prompt finalization of the draft United Nations declaration on the rights of indigenous peoples and its adoption.**

43. **In view of the fact that this research initiative has revealed that the housing conditions of indigenous peoples across the world, in industrialized and developing countries alike, are inadequate, the United Nations Housing Rights Programme must continue its work to promote the housing rights of indigenous peoples.**

National level

44. **Once ratified, the international legal instruments mentioned above should be incorporated into domestic law and jurisprudence and their application in the domestic context should be ensured.**

45. **States that have ratified international human rights laws of general application should interpret and implement their legal obligations under these instruments in the light of the specific needs and circumstances of the indigenous peoples.**

46. **States should guarantee the application of the principle of non-discrimination and the equal exercise and enjoyment of housing rights by indigenous women and men in appropriate domestic laws, such as national constitutions and human rights legislation, and in the interpretation of customary and civil law.**

47. **The principles of non-discrimination and equality will only be meaningful for indigenous peoples if they are interpreted and implemented through policies and programmes in a manner that addresses the structural disadvantage and historical injustice they have experienced. To determine whether laws and policies address the inequality suffered by indigenous peoples with respect to housing and land rights, States must assess these laws, policies and programmes in terms of their effects.**

48. **National human rights institutions must be available to protect the human rights and specific rights of indigenous peoples. This is particularly important in the context in which an indigenous person is being discriminated against within his or her own community.**

49. **As it stands, many indigenous peoples are not using judicial or quasi-judicial mechanisms to claim their rights. States must assess the extent to which existing enforcement mechanisms are accessible to indigenous women and men, bearing in mind factors such as lack of knowledge regarding available mechanisms as well as factors such as expense, location, and cultural and linguistic barriers that may impede access. Addressing these obstacles may require restructuring existing mechanisms or developing new mechanisms or it may require the establishment and the management of such mechanisms by indigenous people themselves.**

50. **Governments and indigenous community leaders must enact and implement laws and policies that legally protect the housing rights of all women, including indigenous women, upon the breakdown of marriage or the death of a spouse. This should include laws ensuring that women, including indigenous women, can remain in their homes upon marriage dissolution or the death of a spouse. Moreover, efforts must be made to ensure that customs, traditions and laws are interpreted in a manner that ensures women's equal right to inherit land, property and housing irrespective of their marital or other status.**

Other matters

51. **In many countries there is a scarcity of specific data pertaining to the housing conditions of indigenous peoples. Furthermore, indigenous women's organizations are often marginalized and poorly funded, and are thus prohibited from engaging in dialogue and discussions within their own communities as well as with government representatives and other stakeholders. The following recommendations are aimed at addressing these issues:**

(a) International organizations, States, universities, research institutions and non-governmental organizations should collect detailed and accurate qualitative and quantitative information regarding the housing conditions and experiences of indigenous peoples. This information should be gathered in close association with indigenous peoples' organizations. All information should be gender disaggregated and rights-based and, where possible, comparisons with non-indigenous populations should be made. Differences between urban and rural indigenous dwellers should also be provided. The Covenant on Economic, Social and Cultural Rights has developed reporting guidelines that may prove useful in the collection of this data. All data should be made available to the indigenous peoples concerned;

(b) States and other funders should provide financial resources for indigenous organizations, including urban-based and women's groups, to assist them in conducting research and participating in activities that will enhance their living and housing conditions.

II. UN-Habitat response to recommendations addressed to one or more agencies and information regarding recent policies and activities regarding indigenous issues

52. In this section of its report, UN-Habitat provides its response to most of the issues raised at the third session of the Permanent Forum on Indigenous Issues, in particular the recommendations specified in paragraphs 5, 8 and 16 of the report of the Forum[4] on indigenous women and education within its general activities aimed at improving living conditions of the poor, vulnerable and disadvantaged groups, including indigenous peoples. Within that framework, UN-Habitat work on security of tenure provides scope for a strategic partnership with indigenous people in addressing the complex nature of land issues. All indigenous people retain a strong sense of their distinct cultures, the most salient feature of which is a special relationship to land. UN-Habitat work on poverty alleviation and the Millennium Development Goals has the potential to establish direct links with indigenous people's livelihoods. UN-Habitat seeks to promote the participation of civil society, including non-governmental organizations, in human settlements development and related decision-making processes. This is also relevant to the needs and concerns of indigenous peoples. Despite the fact that urban settlements hold tremendous potential as engines of economic and social development, they can simultaneously generate and intensify social exclusion, denying the benefits of urban life to the poor, women, youth and indigenous peoples, religious or ethnic minorities and other marginalized groups.

53. The second session of the World Urban Forum, which was a part of the Universal Forum of Cultures, which took place in Barcelona, Spain, in September 2004, brought together stakeholders in human settlements development from all over the world. The Forum provided avenues also for the involvement of indigenous communities.

54. The gender policy of UN-Habitat, which aims at the effective implementation of its gender policy and at addressing the Habitat Agenda[5] commitment to gender equality, has three overall objectives:

(a) To promote women's equal rights and women's empowerment internationally within the area of human settlements development;

(b) To support Governments, non-governmental organizations and other partners in capacity-building activities and development in order to mainstream gender equality in human settlements development;

(c) To mainstream a gender perspective in all UN-Habitat activities.

55. While working towards those objectives, UN-Habitat focuses particularly on the needs of the most vulnerable and disadvantaged women's groups, including indigenous women. The main method of outreach for the empowerment of women in human settlements is through the global women's networks that form part of the Huairou Commission. The Gender Task Force, an internal body in UN-Habitat, aims to mainstream gender in all aspects of the programme's work.

III. Activities of UN-Habitat related to the Millennium Development Goals and indigenous peoples

56. As was elaborated in the inputs provided to the specific working group on the theme, UN-Habitat involvement in the implementation of the Millennium Development Goals, particularly Goal 7, targets 10 and 11, are relevant to the issues and needs of indigenous peoples.

57. As elaborated in section I above, global research on housing conditions of indigenous peoples, both in urban and rural areas, including the status of the progressive realization of the right to adequate housing as enshrined in international instruments, reveals that indigenous peoples live in inferior conditions compared to the rest of the populations in most countries. Furthermore, the research also stresses the vulnerability of indigenous groups, which are often affected by displacement, the insecurity of tenure they have over their traditional homelands and the culturally inappropriate housing alternatives offered by authorities. Millennium Development Goal 7, target 11, which envisages the achievement of significant improvement in lives of at least 100 million slum-dwellers by 2020, is quite relevant to the status and needs of indigenous peoples both in urban and rural areas, and is also stressed within the context of the Istanbul Declaration and the Habitat Agenda. Similarly, Millennium Development Goal 7, target 10, which envisages reduction by half of the proportion of people without sustainable access to safe drinking water, is very relevant to the mandate and diverse activities of UN-Habitat.

Notes

[1] See *Official Records of the Economic and Social Council, 2004, Supplement No. 23* (E/2004/43), chap. I, para. 68.

[2] See ibid., *2002, Supplement No. 23* (E/2002/43/Rev.1), chap. I, paras. 3 (a)-(c), 6 (a), 8, 25 (e), 24 and 28 (b); see also ibid., *2003, Supplement No. 23* (E/2003/43), chap. I, para. 32; and General Assembly resolution 57/191, para. 5.

[3] For the purposes of the present report, dispossession may be a result of the initial colonization processes, changes to land tenure schemes or forced eviction for private development projects or the exploitation of natural resources.

[4] *Official Records of the Economic and Social Council, 2004, Supplement No. 23* (E/2004/43), chap. I.

[5] *Report of the United Nations Conference on Human Settlements (Habitat II), Istanbul, 3-14 June 1996* (United Nations publication, Sales No. E.97.IV.6), chap. I, resolution I, annex II.